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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,696	12/13/2001	Brian A. Hunter	huntcb01.007	5130
25247	7590	12/20/2007		
GORDON E NELSON PATENT ATTORNEY, PC 57 CENTRAL ST PO BOX 782 ROWLEY, MA 01969			EXAMINER KHATTAR, RAJESH	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 12/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/018,696	Applicant(s) HUNTER ET AL.	
	Examiner Rajesh Khattar	Art Unit 3693	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


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Examiner has carefully reviewed Applicant's arguments concerning the rejection of claims 19-26 under 35 U.S.C. 103(a). Examiner does not find Applicant's argument persuasive for the following reasons:

Applicant states that "Lange is using the term "real options" in the same way as van Mieghem." Applicant further states that it becomes clear that the manner in which van Mieghem uses the term "real option" is fundamentally different from the way the term is used in Applicant's specification and claims. Applicant cites page 2, lines 11-21 of Applicants' Specification. Applicant further states that a technique for calculating the value of a real option using the Black-Scholes formula is presented at p7, lines 26-page 8, lines 12. Examiner respectfully disagrees.

It is Examiner's interpretation that the Markowitz's model does not take into account the uncertainty when determining valuation of each asset class over a period of time. In this regard, Applicant recognized that this deficiency can be overcome by utilizing the real option function. Examiner notes that the utilization of real option feature is Applicant's inventive concept and is claimed in claim 19. Examiner notes that Lange is aware of using real option feature in addressing the uncertainty and is clear from the disclosure at col. 57, line 54-col. 58, line 25 which reads "Many economists and investors recognize the importance of real options in Capital Budgeting decisions and of setting up markets to better manage their uncertainty and value". Examiner asserts that the way Lange is using the real option is not fundamentally different from the way the term is used in Applicant's claimed invention as the real option feature is used to account for the uncertainty. Therefore, the combination of Kaplan and Lange when taken as a whole teaches the claimed invention.

Regarding rejection of claims 20 and 26, Examiner respectfully draws Applicant's attention to page 3, of previous Final Official Action dated Sept. 6, 2007 which addresses the rejection based on Kaplan. However, Applicant (in Remarks dated 12/6/2007) discusses Lange as a prior art rejection for these claims.

Examiner is maintaining the Final rejection.